

**CIVIL COVER SHEET**

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

David Johnson

**DEFENDANTS**

MMI Properties, LLC

(b) County of Residence of First Listed Plaintiff **Contra Costa**  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant **Contra Costa**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Thomas N. Stewart, III  
369 Blue Oak Lane  
Clayton, Ca 94517  
(925) 672-8452

Attorneys (If Known)

*C 11-516 MEJ*

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 12101

Brief description of cause:

ADA Title III

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**

(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE☐ EUREKA

DATE

January 31, 2011

SIGNATURE OF ATTORNEY OF RECORD

*[Signature]*

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Attorneys for David Johnson

**FILED**

FEB 2 2011

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**ORIGINAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**MEJ**

**CV11**

**0516**

DAVID JOHNSON,

Case No. CV 11-

Civil Rights

Plaintiff,

v.

MMI PROPERTIES, LLC,

COMPLAINT FOR PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF AND  
DAMAGES: DENIAL OF CIVIL RIGHTS AND  
PUBLIC FACILITIES TO PHYSICALLY  
DISABLED PERSONS (CIVIL CODE §§ 51,  
ET SEQ.; INJUNCTIVE RELIEF PER  
TITLE III, AMERICANS WITH DISABILITIES  
ACT OF 1990

Defendant.

Plaintiff, David Johnson, alleges:

FIRST CLAIM FOR RELIEF: DAMAGES AND INJUNCTIVE RELIEF  
FOR DENIAL OF FULL AND EQUAL ACCESS TO A PUBLIC ACCOMMODATION:  
PUBLIC FACILITIES AT A RESTAURANT (Civil Code §§ 51, et seq.)

1. David Johnson is a C5/6 quadriplegic as the result of an accident. He does not have the  
use of his legs, and has limited use of his hands, and is a "person with a disability" and

1 “physically handicapped person”. Plaintiff requires the use of a wheelchair for locomotion and  
2 is either unable to use portions of public facilities which are not accessible to disabled persons  
3 who require the use of a wheelchair or is only able to use such portions with undue difficulty.

4 2. The “Cheese Steak Shop” (the Restaurant) is a restaurant located at 3478 Clayton Road,  
5 Concord, California and is open to the public. Defendant owns the real property where the  
6 Restaurant is located.

7 3. Summary of facts: This case involves the denial of access to Plaintiff and others similarly  
8 situated at the Restaurant on January 23, 2011. Plaintiff was denied equal protection of the law  
9 and was denied Civil Rights under both California law and federal law, as below described  
10 because the parking lot that serves it has no accessible parking and because the toilet is too far  
11 away from each wall to be accessible, which made the Restaurant not properly accessible to  
12 Plaintiff and to others similarly situated. Plaintiff seeks injunctive relief to require Defendant to  
13 correct those barriers, to comply with ADAAG and the CBC where required, to remove all  
14 barriers to access in the Restaurant which are readily achievable, to make all reasonable  
15 accommodations in policy in order to enable Plaintiff and others similarly situated to use the  
16 Restaurant and at minimum, to use readily achievable alternative methods to enable Plaintiff to  
17 use the goods and services which the Restaurant makes available to the non-disabled public.  
18 Plaintiff also seeks the recovery of damages for his personal damages involved in the  
19 discriminatory experiences on January 23, 2011, and seeks recovery of reasonable attorney’s fees  
20 and litigation expenses and costs according to statute.

21 4. Jurisdiction: This Court has jurisdiction of this action pursuant to 28 USC § 1331 for violations  
22 of the Americans with Disabilities Act of 1990, 42 USC 12101 et seq. Pursuant to supplemental  
23

1 jurisdiction, attendant and related causes of action arising from the same facts are also brought  
2 under California law, including but not limited to violations of California Civil Code §§ 51, et seq.

3 5. Venue: Venue is proper in this Court pursuant to 28 USC 1391(b) and is founded on the fact  
4 that the location where Plaintiff experienced his discrimination is located in this district and that  
5 Plaintiff's causes of action arose in this district.

6 6. Intradistrict: This case should be assigned to the San Francisco intradistrict because the  
7 incident occurred in, and Plaintiff's rights arose in, the San Francisco intradistrict.

8 7. The Restaurant is a "public accommodation or facility" subject to the requirements of  
9 California Civil Code § 51, et seq.

10 8. Placeholder.

11 9. Defendants are and were the owners, operators, managers, lessors and lessees of the subject  
12 Restaurant at all times relevant herein. Plaintiff is informed and believes that each of the  
13 Defendants is and was the agent, employee or representative of each of the other Defendants, and  
14 performed all acts and omissions stated herein within the scope of such agency or employment or  
15 representative capacity and is responsible in some manner for the acts and omissions of the other  
16 Defendants in proximately causing the damages complained of herein.

17 10. Plaintiff and others similarly situated are disabled persons who are mobility impaired and are  
18 unable to use public facilities on a "full and equal" basis unless each such facility is in compliance  
19 with the provisions of the Americans with Disabilities Act of 1990 and the regulations thereof.  
20 Under Civil Code §§ 51, et seq., Defendants were required to comply with the requirements of the  
21 Americans with Disabilities Act of 1990 and the federal regulations adopted pursuant thereto. The  
22 acts and omissions of which Plaintiff complains took place at the Restaurant.

1 11. Civil Code §§ 51, et seq., were enacted to prohibit discrimination against people with  
2 disabilities and to encourage the full and free use by people with disabilities of public facilities  
3 and other public places. CC §§ 51, et seq. state that a violation of the Americans with Disabilities  
4 Act of 1990 is a "violation of this section"; CC § 52 states that minimum damages for  
5 discrimination are \$4,000 for each incidence of discrimination.

6 12. Health & Safety Code § 19955 was enacted "To ensure that public accommodations or  
7 facilities constructed in this state with private funds adhere to provisions of Chapter 7  
8 (commencing with § 4450) of Division 5 of Title 1 of the Government Code." Such public  
9 accommodations include those which are the subject of this action. On information and belief,  
10 Title 24 California Code of Regulations, formerly known as the California Administrative Code,  
11 was in effect at the time of construction and of each alteration of work, all of which occurred after  
12 July 1, 1982, thus requiring access complying with the specifications of title 24 for all such  
13 construction and for each such "alteration, structural repair or addition".

14 13. The Restaurant's parking lot has no accessible parking. Inside the Restaurant, the toilet is too  
15 far from both walls to be accessible to people in wheelchairs. On January 23, 2011, Plaintiff  
16 patronized the Restaurant. When he did so, he had no choice but to park in an inaccessible  
17 parking space. Inside the Restaurant, after ordering his sandwich, he went to use the men's  
18 restroom to urinate, but discovered that because of the inaccessible spacing, he was unable to  
19 transfer to the toilet, and was thus unable to use it. When Plaintiff left the Restaurant, another  
20 vehicle had parked next to his, forcing his wife to back out of the parking space before Plaintiff  
21 could enter his vehicle. Thus, Plaintiff encountered each of the above-described barriers, and  
22 experienced difficulty, discomfort or embarrassment because of them.



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1 14. Defendant's failure to remove the barriers as aforesaid, remove all readily achievable barriers,  
2 institute policies in furtherance of accessibility or at least have an alternate policy to enable  
3 Plaintiff to use the goods and services offered to the non-disabled public without having to suffer  
4 the indignities, as aforesaid, was a violation of the California Restaurant Code, the Americans  
5 with Disabilities Act and federal regulations adopted pursuant thereto, and as a consequence, was  
6 a violation of Civil Code §§ 51, et seq.

7 15. Injunctive relief: Plaintiff seeks injunctive relief to prohibit the acts and omissions by  
8 Defendant at the Restaurant as stated above which appear to be continuing, and which have the  
9 effect of discriminating against Plaintiff based on his disability. Plaintiff will continue to  
10 patronize the Restaurant. Such acts and omissions are the cause of humiliation and inconvenience  
11 of Plaintiff in that these actions continue to treat Plaintiff as inferior and second class citizens and  
12 serve to discriminate against Plaintiff on the sole basis that he is a person with disabilities.  
13 Plaintiff is unable so long as such acts and omissions of Defendant continue, to achieve equal  
14 access to and use of this public facility. The acts of Defendant have proximately caused and will  
15 continue to cause irreparable injury to Plaintiff if not enjoined by this Court.

16 16. Damages: As a result of the denial of equal access to the Restaurant and due to the acts and  
17 omissions of Defendants and each of them in owning, operating and/or leasing the Restaurant,  
18 Plaintiff suffered a violation of Civil Rights including but not limited to rights under Civil Code  
19 §§ 51, et seq., and suffered mental and emotional distress, all to Plaintiff's damages. Defendant's  
20 actions and omissions to act constituted discrimination against Plaintiff on the sole basis that  
21 Plaintiff was physically disabled and unable to use the facilities on a full and equal basis as other  
22 persons. Plaintiff seeks the minimum damages of \$4,000 pursuant to CC § 52, et seq.

1 17. Fees and costs: As a result of Defendant's acts, omissions and conduct, Plaintiff has been  
2 required to incur attorney's fees, litigation expenses, and costs as provided by statute, in order to  
3 enforce Plaintiff's rights and to enforce provisions of the law protecting access for disabled  
4 persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks recovery  
5 of all reasonable attorney's fees and costs, pursuant to the provisions of Civil Code §§ 52.  
6 Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for damages to  
7 Plaintiff, but also to force the Defendants to make their facilities accessible to all disabled  
8 members of the public, justifying "public interest" attorney's fees, litigation expenses and costs  
9 pursuant to Code of Civil Procedure § 1021.5.

10 18. Wherefore, Plaintiff asks this Court to preliminarily and permanently enjoin any continuing  
11 refusal by Defendants to comply with the requirements of the California Building Code, the  
12 Americans with Disabilities Act of 1990 and regulations adopted pursuant thereto with respect to  
13 access of disabled persons to the Restaurant; for statutory damages and attorneys' fees pursuant to  
14 CC § 52.

15 SECOND CLAIM FOR RELIEF:  
16 VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990  
17 42 USC §§ 12101 FF

18 19. Plaintiff realleges the allegations of paragraphs 1-18 hereof.

19 20. Pursuant to law, in 1990 the United States Congress made findings per 42 USC §12101  
20 regarding physically disabled persons, finding that laws were needed to more fully protect "some  
21 43 million Americans [with] one or more physical or mental disabilities"; that "historically society  
22 has tended to isolate and segregate individuals with disabilities"; and that "such forms of  
23 discrimination against individuals with disabilities continue to be a serious and pervasive social



1 problem"; that "the Nation's proper goals regarding individuals with disabilities are to assure  
 2 equality of opportunity, full participation, independent living and economic self sufficiency for  
 3 such individuals"; and that "the continuing existence of unfair and unnecessary discrimination and  
 4 prejudice denies people with disabilities the opportunity to compete on an equal basis and to  
 5 pursue those opportunities for which our free society is justifiably famous ..."

6 21. Congress stated as its purpose in passing the Americans with Disabilities Act (42 USC  
 7 §12101(b)):

8 It is the purpose of this act

9 (1) to provide a clear and comprehensive national mandate for the elimination of  
 discrimination against individuals with disabilities;

10 (2) to provide clear, strong, consistent, ***enforceable standards*** addressing discrimination  
 against individuals with disabilities;

11 (3) to ensure that the Federal government plays a central role in enforcing the standards  
 12 established in this act on behalf of individuals with disabilities; and

13 (4) to invoke the sweep of Congressional authority, including the power to enforce the  
 14 14th Amendment and to regulate commerce, in order to address the major areas of  
***discrimination faced day to day*** by people with disabilities (emphasis added).

15 22. As part of the Americans with Disabilities Act, Public Law 101-336 (hereinafter the "ADA"),  
 16 Congress passed "Title III - Public Accommodations and Services Operated by Private Entities"  
 17 (42 USC 12181 ff). Among "private entities" which are considered "public accommodations" for  
 18 purposes of this Title is an office Restaurant (Regulation 36.104).

19 23. Pursuant to §302, 42 USC §12182, "No individual shall be discriminated against on the basis  
 20 of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
 21 advantages or accommodations of any place of public accommodation by any person who owns,  
 22 leases or leases to, or operates a place of public accommodation."

1 24. Among the specific prohibitions against discrimination were included: *§12182(b)(2)(A)(ii)*:  
2 "A failure to make reasonable modifications in policies, practices or procedures when such  
3 modifications are necessary to afford such goods, services, facilities, privileges, advantages or  
4 accommodations to individuals with disabilities ..."; *§12182(b)(A)(iii)*: "a failure to take such  
5 steps as may be necessary to ensure that no individual with a disability is excluded, denied service,  
6 segregated, or otherwise treated differently than other individuals because of the absence of  
7 auxiliary aids and services ..."; *§12182(b)(A)(iv)*: "A failure to remove architectural barriers and  
8 communication barriers that are structural in nature, in existing facilities ... where such removal is  
9 readily achievable"; *§12182(b)(A)(v)*: "Where an entity can demonstrate that the removal of a  
10 barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities,  
11 privileges, advantages, or accommodations available through alternative methods if such methods  
12 are readily achievable". The acts and omissions of Defendants set forth herein were in violation of  
13 Plaintiff's rights under the ADA, Public Law 101-336, and the regulations promulgated  
14 thereunder, 28 CFR Part 36ff.

15 25. The removal of each of the barriers complained of by Plaintiff as hereinabove alleged, was at  
16 all times herein mentioned "readily achievable" under the standards of the Americans With  
17 Disabilities Act. Because the Restaurant was not accessible, Defendants had an obligation to have  
18 some sort of plan which would have allowed Plaintiff to enjoy the Restaurant's services without  
19 having to suffer the indignities as aforesaid.

20 26. Pursuant to the Americans with Disabilities Act, 42 USC 12188ff, §308, Plaintiff is entitled to  
21 the remedies and procedures set forth in §204(a) of the Civil Rights Act of 1964, 42 USC 2000(a)-  
22 3(a), as Plaintiff is being subjected to discrimination on the basis of disability in violation of this

1 Title or has reasonable grounds for believing that he is about to be subjected to discrimination in  
2 violation of §12182. On information and belief, Defendants have continued to violate the law and  
3 deny the rights of Plaintiff and of other disabled persons to access this public accommodation  
4 since on or before January 23, 2011. Pursuant to §12188(a)(2), "In cases of violations of  
5 §12182(b)(2)(A)(iv) ... injunctive relief shall include an order to alter facilities to make such  
6 facilities readily accessible to and usable by individuals with disabilities to the extent required by  
7 this title."

8 27. Plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of 1964,  
9 (42 USC 2000(a)-3(a), and pursuant to Federal Regulations adopted to implement the Americans  
10 with Disabilities Act of 1990. Plaintiff is a person for purposes of Section 12188(a) of the ADA  
11 who is being subjected to discrimination on the basis of disability in violation of Title III and who  
12 has reasonable grounds for believing he will be subjected to such discrimination each time that he  
13 may attempt to patronize the Restaurant.

14 Wherefore Plaintiff prays for relief as hereinafter stated:

15 PRAYER

16 1. Issue a preliminary and permanent injunction directing Defendant to modify its  
17 facilities as required by law to comply with the ADAAG and the CBC where required, remove all  
18 barriers where it is readily achievable to do so, institute policies in furtherance of accessibility or  
19 at least have an alternate policy to enable Plaintiff to use the goods and services offered to the  
20 non-disabled public so that it provides adequate access to all citizens, including persons with  
21 disabilities; and issue a preliminary and permanent injunction directing Defendants to maintain its  
22 facilities usable by Plaintiff and similarly situated persons with disabilities in compliance with

1 federal regulations, and which provide full and equal access, as required by law;

2 2. Retain jurisdiction over the Defendants until such time as the Court is satisfied that  
3 Defendant's unlawful policies, practices, acts and omissions, and maintenance of inaccessible  
4 public facilities as complained of herein no longer occur, and will not recur;

5 3. Award to Plaintiff all appropriate statutory damages;

6 4. Award to Plaintiff all reasonable attorneys' fees, all litigation expenses, and all costs of  
7 this proceeding as provided by law; and

8 5. Grant such other and further relief as this Court may deem just and proper.

9 Date: January 31, 2011

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12 S/Thomas N. Stewart, III  
13 Attorney for Plaintiff  
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